

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
December 11, 2007**

A regular session of the Winchester Common Council was held on Tuesday, December 11, 2007 in the Council Chambers, Rouss City Hall. President Charles Gaynor called the meeting to order at 7:30 p.m.

PRESENT: President Gaynor, Vice President Griffin, Mayor Minor, Vice-Mayor Buettner, and Councilors Butler, Clark, Coyne, Helm, Major, Masters, and Nelson. (11)

ABSENT: None (0)

INVOCATION – Chaplain Elizabeth Lewis, Westminster Canterbury, pronounced the invocation.

PLEDGE OF ALLEGIANCE – Mayor Minor led councilors and citizens in the Pledge of Allegiance.

APPROVAL OF MINUTES – President Gaynor moved that the minutes of the November 13, 2007 Regular Meeting be approved as presented. *The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.*

Mayor Minor presented Sterling Grooms with a proclamation honoring his success in the Special Olympics. She also declared December 11, 2007, as “Sterling Grooms Day” in Winchester, Virginia.

REPORT OF PRESIDENT

- Certificate of Recognition for the National Merit Scholarship Commended Students. Councilor Coyne and John Handley High School Principal Doug Joyner presented the National Merit Scholarship winners from John Handley High School with a certificate of special recognition. Mr. Joyner stated only 18% of the students in the nation taking advanced placement classes in high school earn the recognition of AP Scholar. Sixty-four students at Handley achieved this honor. A student must achieve a PSAT score of 96% or better to be considered for the National Merit Scholarship Program. Ten students at Handley achieved this honor. Mr. Joyner stated it is very rare to have a school with 74 students awarded these honors and the school is very proud of them.
- Public Hearing: AN ORDINANCE TO AMEND AND RE-ENACT SECTION 29-42 OF THE WINCHESTER CITY CODE PERTAINING TO THE ADJUSTMENT OF WATER AND WASTEWATER CHARGES.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:54 p.m.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-8.1 OF THE WINCHESTER CITY CODE TO INCREASE THE NUMBER OF SOCIAL SERVICES ADVISORY BOARD MEMBERS FROM SEVEN (7) TO NINE (9)

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:54 p.m.

- Public Hearing: Motion to approve request of Painter-Lewis PLC for a Conditional Use Permit for a replacement auto body shop at 2725 Valley Avenue zoned Highway Commercial, B-2 District with Corridor Enhancement, CE District overlay. The proposed body shop would replace one at 2700 Valley Avenue. CU-07-09

John Lewis of Painter-Lewis, PLC stated they have been through a number of work sessions and a public hearing with the Planning Commission. What you have before you is a recommendation to approve with conditions. The owner, Mr. Stutzman, is not here tonight so he is going to represent his wishes also. We do not have any problems with the conditions except one. We would like to propose an amendment to condition number 3 which states as condition of approval that we install pole-mounted lights in the rear of the facility. First, the ordinance does not require pole-mounted lights. The ordinance requires lighting be provided in the outdoor spaces to provide security and safety. Secondly, "pole-mounted lights" is a pretty big term. He stated he is not sure what that means. He does not want this approval conditioned on it when we specifically do not know what pole-mounted lights are. What kind of lights, how high, etc. What we are talking about is an area behind the proposed body shop that measures in length to about 60 feet from the property line to the rear of the building. Keep in mind the property line is a common boundary between the proposed body shop and single family residences. We are very sensitive to how we impact the single family residential properties. In his opinion, pole-mounted lights are going to have a lot more of an impact visually to the residents. We are proposing building-mounted lights that are located 12 feet high on the building. We have done an illumination plan to see what the illumination effects are going to be in the rear. If anyone is concerned about safety and security, it would be Mr. Stutzman. This plan has been explained to Mr. Stutzman and he endorses the plan. We would propose that the pole-mounted light portion of the condition be removed. He stated the Council Chambers is about 55 feet in length. We are talking about putting 16-20 foot high pole-mounted lights in a space this small. It is not necessary to provide for safety and security. He added if you have a 20 foot pole-mounted light 15 foot away from the property line, the neighbors are going to see it no matter what you do. He thinks this is a much better plan and asked council to remove the pole-mounted lights from the condition.

Vice-President Griffin asked how the term pole was put into the condition. Mr. Lewis stated the Planning Commission insisted on pole-mounted lighting.

President Gaynor asked City Attorney Anthony Williams if it was appropriate for Mr. Lewis to make an amendment. Mr. Williams stated council could move to amend the motion based on Mr. Lewis's proposal.

Councilor Masters asked Mr. Lewis if the lights on the building are going to be less intrusive to the residents than pole-mounted lights shining away from the residents. Mr. Lewis stated they

would because they would be shielded and down cast. He added they have calculated what the illumination at the property line would be and it would be zero. It's going to be better to have a light that is 12 feet high on the building 60 feet away from the property line than a pole-mounted light that is 15 feet from the property line.

Councilor Major asked Planning Director Tim Youmans if the illumination plan as submitted met the ordinance requirements. Mr. Youmans stated the site plan is yet to come. This is only for the Conditional Use Permit. We do have a site plan that shows the building illumination that we were able to review for the initial proposal. Most of our complaints come from building mounted lights, especially at used car lots. The lights mounted along the property line and shining away from the residents toward the business are not the ones creating the problems. The ordinance requires a minimal amount of illumination at the edges of all parking areas. The challenge is to do that but not have the spillage beyond it, particularly in a residential area. Commercial areas do not have the complaints because there is not an impact on neighborhood quality of life.

Councilor Major asked if the illumination plan they have submitted meets the ordinance. Mr. Youmans stated we have not reviewed it to that level of detail yet. That is a site plan issue and not a conditional use permit issue. However, we have experienced complaints in other examples. He is sure it can be done but the question is will it be handled properly long term.

Vice-President Griffin asked if there are examples where it has been successfully done with building mounted lights. Mr. Youmans stated in the areas we have had the complaints, they have tried to angle the lights down more and put shields on them but we still have complaints. He does not know of any that successfully can provide the illumination out 60 feet and not go the addition 15 foot to the edge of the property. Its very difficult particularly at 12 foot on a building, you have an outcast rather than a downcast kind of illumination.

Councilor Clark stated it sounds like Mr. Lewis is referring to a particular design that points down and wouldn't aim at the residents. Mr. Youmans stated there is an architectural accent light that is shown. To get back to Mr. Major's question, the plan we have seen so far does not meet the minimum illumination at the edge of the parking. It actually goes to zero and does not provide the minimal illumination in the parking area.

Councilor Helm confirmed the primary concern is the bleed beyond the property line. Mr. Youmans stated in order to get the minimum illumination 60 feet out, it is also going to extend beyond that and create the glare.

Councilor Helm confirmed there would be not be a restriction on a pole-mounted light to get the required amount of downcast lighting without bleed back to the residential area. Mr. Youmans stated that is correct because it can be easily handled with a shield and with the directional angle pointing back towards the building.

Councilor Helm asked if there are other visual barriers between this commercial district and the residential district. Mr. Youmans stated again it is a site plan issue. They would like not to have to install additional screening and fences because there are evergreen trees and some fences that the residents have constructed over time. The present day evergreens and fences provide screening in some portions but not across the boundary line.

With no further citizens wanting to address Council, President Gaynor closed the public hearings at 8:14 p.m.

- Public Hearing: Motion to approve request of Goodfellow's for a Conditional Use Permit for a nightclub at 821 N. Loudoun Street zoned Highway Commercial, B-2 District. CU-07-10

Daniel Brereton, president of Goodfellow's, stated if there are any questions; he is here to answer them. He added they are trying to bring something like a Buffalo Wild Wings to that side of town. They want to change what used to be there into something good. He has experience and currently owns 5 pizza places, a deli and a bar in Strasburg. He is hoping along with the owner of the building to put something good into the shopping center.

With no further citizens wanting to address Council, President Gaynor closed the public hearings at 8:16 p.m.

FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- Motion to approve Police Department staffing recommendations.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

- Motion to approve Comprehensive Employee Management System changes.

The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.

PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Motion to approve request of Painter-Lewis PLC for a Conditional Use Permit for a replacement auto body shop at 2725 Valley Avenue zoned Highway Commercial, B-2 District with Corridor Enhancement, CE District overlay. The proposed body shop would replace one at 2700 Valley Avenue. CU-07-09

The motion was seconded by Councilor Clark.

Councilor Helm moved to amend item 3 in the recommendation by striking the phrase "pole-mounted." *The motion was seconded by Councilor Major then unanimously approved by voice-vote.*

The main motion as amended was unanimously approved by voice-vote.

- Motion to approve request of Goodfellow's for a Conditional Use Permit for a nightclub at 821 N. Loudoun Street zoned Highway Commercial, B-2 District. CU-07-10

The motion was seconded by Councilor Major then unanimously approved by voice-vote. President Gaynor asked it be reflected in the record that he did not vote on this item.

- First Reading: AN ORDINANCE TO REMOVE A ZONING PROFFER PERTAINING TO BUILDING USE RESTRICTIONS ASSOCIATED WITH A CONDITIONAL REZONING OF 2 N. CAMERON STREET CONDITIONALLY ZONED CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW. RZ-07-10
- First Reading: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.627 ACRE PARCEL OF LAND FROM EDUCATIONAL, INSTITUTIONAL AND PUBLIC USE, EIP DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 126 NORTH CAMERON STREET. RZ-07-11
- First Reading: AN ORDINANCE TO AMEND AND READOPT; SECTION 11-36 OF THE CITY OF WINCHESTER CITY CODE TO INCORPORATE CIVIL PENALTIES
- First Reading: AN ORDINANCE TO AMEND AND READOPT; SECTION 6-8 OF THE CITY OF WINCHESTER CITY CODE, REGARDING UNSAFE STRUCTURES AND TO INCORPORATE RECENT AMENDMENTS TO STATE CODE
- First Reading: AN ORDINANCE ADDING ARTICLE VIII OF CHAPTER 6 SECTION 6-143 OF THE WINCHESTER CITY CODE TO PERMIT THE ZONING ADMINISTRATOR AND CODE OFFICIAL TO ISSUE CIVIL SUMMONSES
- First Reading: AN ORDINANCE ADDING SECTION 6-144 OF THE WINCHESTER CITY CODE TO PROVIDE A UNIFORM SCHEDULE OF CIVIL PENALTIES AND AN APPROVED FORMAT FOR CIVIL SUMMONSES VIOLATIONS OF THE ZONING ORDINANCE AND VIRGINIA PROPERTY MAINTENANCE CODE
- First Reading: AN ORDINANCE TO AMEND AND READOPT SECTION 6-89 OF THE WINCHESTER CITY CODE TO INCLUDE SUBSECTION (E) CONCERNING THE DESIGNATION OF THE INDIVIDUAL DWELLING UNIT AT 2217 HARRISON STREET AS AN INDIVIDUAL RENTAL INSPECTION DISTRICT

President Gaynor asked the record to reflect he questions this item.

PUBLIC SERVICES

Chairman Helm presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ENACT SECTION 29-42 OF THE WINCHESTER CITY CODE PERTAINING TO

**THE ADJUSTMENT OF WATER AND WASTEWATER
CHARGES.COMMUNITY SAFETY AND SERVICES**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

COMMUNITY SAFETY

Chairman Butler stated the committee does not have a report tonight but he would like to refer to Assistant City Manager Craig Smith for an announcement.

Mr. Smith stated we found out today that Winchester was ranked by the Farmers Insurance Groups as the 17th safest city in the United States in their designation of small towns which is population of 150,000 residents or less. The ranking is based on the city's crime, districts, extreme weather vs. natural disasters, environmental hazards, terrorism threats, air quality, life expectancy, and job loss numbers.

For the second item Mr. Smith will refer to Interim Police Chief White to give the details. There was an incident at Wal-Mart which is commonly referred to as a strong-arm robbery but the details of the incidents grew in the world of the internet and emails that went around. Several of the facts in the incident became distorted and flat out wrong in the emails. He asked Chief White to give a briefing on the incident.

Chief White stated the facts are a lady's purse was stolen outside of Wal-Mart last Tuesday night at about 11:30 p.m. We have arrested 3 people in that incident and the case is closed. To address other parts of the email, there was no abduction, no one was injured, no weapons were used, no Latinos or Hispanic individuals were involved, and it had absolutely nothing to do with gangs or gang activity. We are suggesting that if anyone gets an email like this in the future, they are to call the police department to get the truth before sending the email on to other people.

HEALTH, EDUCATION AND WELFARE

Chairman Coyne presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-8.1 OF THE WINCHESTER CITY CODE TO INCREASE THE NUMBER OF SOCIAL SERVICES ADVISORY BOARD MEMBERS FROM SEVEN (7) TO NINE (9).

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

NEW BUSINESS

Mayor Minor thanked the snow removal team for keeping the streets clear during our first snow fall and ice storm. They did a wonderful job as usual. She also spoke with Natalie Wills today. Natalie informed her that, even in the off season, we had 946 visitors through the Visitor's Center in the month of November. They will be moving into the new building next month and are very excited about that. Mayor Minor took the opportunity to wish everyone a safe and happy holiday. She hopes you have time to visit with friends and family. Please pray for the safety of our troops all around the world who are defending our freedom. She would love to wish everyone a very Merry Christmas and a Happy New Year. President Gaynor stated that during this holiday season he would like to ask everyone to remember those who defend us overseas, at home, and abroad. Keep them in your prayers.

President Gaynor motioned to enter into executive session for the discussion of acquisition of real estate and seek legal advice on other matters. *The motion was seconded by Vice-President Griffin then unanimously approved by voice-vote.*

Upon returning, council members approved a motion to return to open meeting and each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

President Gaynor moved to authorize the IDA to proceed with acquisition of real estate with a requirement that the City incur a moral obligation to resolve any difference in the disposition of real estate in the amount not to exceed \$3 million dollars. *The motion was seconded by Vice-President Griffin. A roll call vote was taken, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Nay
Councilor Coyne	Nay
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Nay
President Gaynor	Aye

President Gaynor moved to authorize the City Attorney and Jim Deskins to proceed with negotiations for the roadway project discussed in the closed session to include the requirement that the IDA contract be entered into prior to the City's commitment. *The motion was seconded by Councilor Coyne and a roll call vote was taken, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye

Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

ADJOURNMENT – With no further business to discuss, the meeting adjourn at 9:26 p.m.

Kari J. Van Diest
Deputy Clerk of the Common Council